UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,835	05/14/2001	Eric Peterson	10012507-1	5740

22879 7590 07/01/2005		EXAMINER
HEWLETT PACKARD COMPANY		WOO, RICHARD SUKYOON

ART UNIT	PAPER NUMBER
3639	

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1)   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2)   Claims 1-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In Claims 1 and 13, respectively, there is no significant claim recitation of the data processing system or calculating computer to perform the data processing operation in which there is a significant change in the data.

Claim Objections

3)   Claims 6 and 10-12 are objected to because of the following informalities:

In Claim 6, line 2, "being" should be changed to --is--.

In Claim 10, line 10, --and-- should be inserted after ";".

Appropriate correction is required.

/

Claim Rejections - 35 USC § 102

4)   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5)   Claims 1-7 and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated

by Bhagavath et al. (US 6,374,288).

As for Claim 1, Bhagavath et al. discloses a method comprising the steps of:

dividing a potential usage period into a plurality of tiers (see Tables 1-4; col. 14,

line 20 – col. 15, line 58);

assigning a usage rate to each of the tiers (see Id.);

assigning an incremental charge to each of the tiers (col. 15, lines 55-58);

determining a tier usage amount for each of the tiers for the session (see col. 15,

line 60 – col. 16, line 13);

calculating a usage cost for each of the tiers by multiplying the tier usage amount

by the usage rate for each respective of the tiers (see Id.);

calculating a total usage cost by summing each of the tier usage costs (see

Supra columns 14-16);

calculating a total incremental cost by summing the incremental charges for each

tier entered during the session (see the billing system, Supra columns 15-16); and

pricing the session by summing the total usage cost and the total incremental

cost (see Id.).

As for Claim 2, Bhagavath et al. further discloses the method, wherein each of the

plurality of tiers is characterized by a beginning threshold usage value (see Tables 1-3).

As for Claim 3, Bhagavath et al. further discloses the method, wherein a first of the plurality of tiers has a threshold usage value of zero units (inherently, the usage count starts from zero).

As for Claim 4, Bhagavath et al. further discloses the method, wherein a last of the plurality of tiers extends to infinite usage (Inherently, the usage would reach infinite mathematically).

As for Claim 5, Bhagavath et al. further discloses the method, wherein the plurality of tiers is consecutive with one another (see Tables 1-3).

As for Claim 6, Bhagavath et al. further discloses the method, wherein the plurality of tiers each is equal in usage duration (see Table 3 for two tiers with equal duration).

As for Claim 7, Bhagavath et al. further discloses the method, wherein the units comprise units chosen from the group consisting of time, information, and digital data (see Supra Tables).

As for Claim 14, Bhagavath et al. discloses a computer program product for causing a computer to calculate a price for a session of a usage based service, the program product comprising a set of computer executable instructions embedded in a computer readable medium, the executable steps when executed causing the computer to:

divide a potential usage period into a plurality of tiers (see Tables 1-4; col. 14, line 20 – col. 15, line 58);

assign a usage rate to each of the tiers (see Id.);

assign an incremental charge to each of the tiers (col. 15, lines 55-58);

determine a tier usage amount for each of the tiers for the session (see col. 15,

line 60 – col. 16, line 13);

calculate a usage cost for each of the tiers by multiplying the tier usage amount

by the usage rate for each respective of the tiers (see Id.);

calculate total usage cost by summing each of the tier usage costs (see Supra

columns 14-16);

calculate a total incremental cost by summing the incremental charges for each

tier entered during the session (see the billing system, Supra columns 15-16); and

calculate the pricing for the session by summing the total usage cost and the

total incremental cost (see Id.).

As for Claim 15, Bhagavath et al. further discloses the computer program, wherein a

first tier of the plurality of tiers has a threshold usage value of zero units, and a last of

the plurality of tiers extends to infinite usage (inherently, the usage count starts from

zero and the usage would reach infinite mathematically if the user spends infinite time of

using the Web).

As for Claim 16, Bhagavath et al. further discloses the computer program product,

wherein the units are chosen from the group consisting of time and digital data (see

Supra Tables).

Claim Rejections - 35 USC § 103

6)   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7)   Claims 8-13 and 17-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Bhagavath et al. in view of Alloune et al. (US 6,615,034).

As for Claims 8-9, Bhagavath et al. disclose the invention as recited earlier, but

does not expressly disclose the method, wherein at least one of the tier usage rates is

negative and at least one of the tier incremental charges is negative.

Alloune et al. teaches, for a billing system for communications, that the system

provides the discounts in which could be based on the usage volume or threshold

usage (see col. 7, line 54 – col. 8, line 8).

Alloune et al. and Bhagavath et al. are both from the same field of endeavor, the

purpose disclosed by Alloune et al. would have been well recognized in the pertinent

field of Bhagavath et al..

Accordingly, it would have been obvious at the time the invention was made to a

person having ordinary skill in the art to modify the method of Bhagavath et al. such that

the method provides discounts by making the tier usage rates (tier incremental charges)

negative, as taught by Alloune et al., for the purpose of providing an incentive or a discount to the users for volume usages or achieving the threshold usage.

As for Claims 10-12, Bhagavath et al. disclose the invention as recited earlier, but does not expressly disclose the method including:

determining a tier usage amount for each of the tiers entered during the session by setting the tier usage value equal to the tier duration value for each of the exceeded tiers, and subtracting the tier beginning threshold value from the total session usage amount for a tier that has been entered but not exceeded.

Alloune et al. teaches, for a billing system for communications, that the system provides the discounts in which could be based on threshold usage (see col. 7, line 54 – col. 8, line 8).

Alloune et al. and Bhagavath et al. are both from the same field of endeavor, the purpose disclosed by Alloune et al. would have been well recognized in the pertinent field of Bhagavath et al..

Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Bhagavath et al. such that the method provides discounts by take parts of usage from the total usage, as taught by Alloune et al., for the purpose of providing an incentive or a discount to the users for achieving the threshold usage.

As for Claim 13, Bhagavath et al. discloses a method comprising the steps of:

dividing a potential usage period into a plurality of tiers (see Tables 1-4; col. 14,

line 20 – col. 15, line 58);

assigning a usage rate to each of the tiers (see Id.);

assigning an incremental charge to each of the tiers (col. 15, lines 55-58);

determining a tier usage amount for each of the tiers for the session (see col. 15,

line 60 – col. 16, line 13);

assigning an incremental charge to each of the tiers;

determining a total usage amount for the session;

calculating a usage cost for each of the tiers by multiplying the tier usage amount

by the usage rate for each respective of the tiers (see Id.);

calculating a total usage cost by summing each of the tier usage costs (see

Supra columns 14-16);

calculating a total incremental cost by summing the incremental charges for each

tier entered during the session (see the billing system, Supra columns 15-16); and

pricing the session by summing the total usage cost and the total incremental

cost (see Id.).

However, Bhagavath et al. does not expressly discloses the method including:

assigning a usage rate to each of the tiers, at least one of the usage rates being

negative;

determining that a respective tiers of the plurality of tiers has been entered if the

total session usage is at least equal to the beginning threshold time for the respective

tier;

determining that a respective tier has been exceeded if a subsequent tier has

been entered during the session; and

determining a tier usage amount for each of the tiers entered during the session

by setting the tier usage value equal to the tier duration value for each of the exceeded

tiers, and subtracting the tier beginning threshold value from the total session usage for

a tier that has been entered but not exceeded.

Alloune et al. teaches, for a billing system for communications, that the system

provides the discounts in which could be based on threshold usage (see col. 7, line 54 –

col. 8, line 8).

Alloune et al. and Bhagavath et al. are both from the same field of endeavor, the

purpose disclosed by Alloune et al. would have been well recognized in the pertinent

field of Bhagavath et al..

Accordingly, it would have been obvious at the time the invention was made to a

person having ordinary skill in the art to modify the method of Bhagavath et al. such that

the method provides discounts by take parts of usage from the total usage, as taught by

Alloune et al., for the purpose of providing an incentive or a discount to the users for

achieving the threshold usage.

As for Claim 17, the modified method of Bhagavath et al. further discloses the computer

program product, wherein at least one of the usage rates is negative (see Supra Claim

8).

As for Claim 18, the modified method of Bhagavath et al. further discloses the computer

program product, wherein at least one of the incremental costs is negative (see Supra

Claim 9).

As Claim 19, Bhagavath et al. discloses a computer program product for causing

a computer to calculate a price for a session of an on-line service, the program product

comprising a set of computer executable instructions embedded in a computer readable

medium, the executable steps when executed causing the computer to:

divide a potential usage period into a plurality of tiers (see Tables 1-4; col. 14,

line 20 – col. 15, line 58);

assign a usage rate to each of the tiers (see Id.);

assign an incremental charge to each of the tiers (col. 15, lines 55-58);

determine a tier usage amount for each of the tiers for the session (see col. 15,

line 60 – col. 16, line 13);

calculate a usage cost for each of the tiers by multiplying the tier usage amount

by the usage rate for each respective of the tiers (see Id.);

calculate total usage cost by summing each of the tier usage costs (see Supra

columns 14-16);

calculate a total incremental cost by summing the incremental charges for each

tier entered during the session (see the billing system, Supra columns 15-16); and

calculate the pricing for the session by summing the total usage cost and the

total incremental cost (see Id.).

However, Bhagavath et al. does not expressly disclose the product including:

assign a usage rate to each of the tiers, at least one of the usage rates being

negative; and

determine a respective of the tiers to have been entered during the session if the

usage value is greater than the beginning threshold value for the respective tier.

Alloune et al. teaches, for a billing system for communications, that the system

provides the discounts in which could be based on threshold usage (see col. 7, line 54 –

col. 8, line 8).

Alloune et al. and Bhagavath et al. are both from the same field of endeavor, the

purpose disclosed by Alloune et al. would have been well recognized in the pertinent

field of Bhagavath et al..

Accordingly, it would have been obvious at the time the invention was made to a

person having ordinary skill in the art to modify the product of Bhagavath et al. such that

the method provides discounts by take parts of usage from the total usage, as taught by

Alloune et al., for the purpose of providing an incentive or a discount to the users for

achieving the threshold usage.

As for Claim 20, Bhagavath et al. discloses a computer program product for

causing a computer to calculate a price for a session of an on-line service, the program

product comprising a set of computer executable instructions embedded in a computer

readable medium, the executable steps when executed causing the computer to:

divide a potential usage period into a plurality of tiers (see Tables 1-4; col. 14,

line 20 – col. 15, line 58);

assign a usage rate to each of the tiers (see Id.);

assign an incremental charge to each of the tiers (col. 15, lines 55-58);

determine a tier usage amount for each of the tiers for the session (see col. 15,

line 60 – col. 16, line 13);

calculate a usage cost for each of the tiers by multiplying the tier usage amount

by the usage rate for each respective of the tiers (see Id.);

calculate total usage cost by summing each of the tier usage costs (see Supra

columns 14-16);

calculate a total incremental cost by summing the incremental charges for each

tier entered during the session (see the billing system, Supra columns 15-16); and

calculate the pricing for the session by summing the total usage cost and the

total incremental cost (see Id.).

However, Bhagavath et al. does not expressly disclose the product including the instruction to:

compare the total on-line usage amount to the plurality of tier threshold times;

determine that a respective tier of the plurality of tiers has been entered during the session if the total on-line usage amount is greater than or equal to the beginning threshold usage amount for the respective tier;

determine that a respective tier has been exceeded during the session if a subsequent tier has been entered;

determine a tier usage amount for each of the plurality of tiers by setting the tier usage value equal to the tier duration usage for each of the exceeded tiers; and

subtracting the tier beginning threshold usage amount from the total usage amount for a tier that has been entered but not exceeded.

Alloune et al. teaches, for a billing system for communications, that the system provides the discounts in which could be based on threshold usage (see col. 7, line 54 – col. 8, line 8).

Alloune et al. and Bhagavath et al. are both from the same field of endeavor, the purpose disclosed by Alloune et al. would have been well recognized in the pertinent field of Bhagavath et al..

Accordingly, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the product of Bhagavath et al. such that

the method provides discounts by take parts of usage from the total usage, as taught by Alloune et al., for the purpose of providing an incentive or a discount to the users for achieving the threshold usage.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2003/0014271 is cited to show a method and system that utilizes the volume discount offered by the service operator as one into to the central server. The volume discount takes part of the bill from the total bill to reward the customers that make a lot of usage.

US 6,418,467 is cited to show a network accounting and billing system and method for different types of sources with different types of information.

US 6,208,977 is cited to show a method and system for collecting traffic data for data transmissions sent over links of the networks, selects a set of paths connecting and determines a price for data transported.
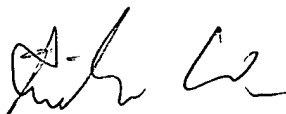
US 2002/0120624 is cited to show a accounting and billing system and method for multi-source, multi-layer network usage metering and mediation solution.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Woo whose telephone number is 571-272-6813. The examiner can normally be reached on Monday-Friday from 8:30 AM -5:00 PM.
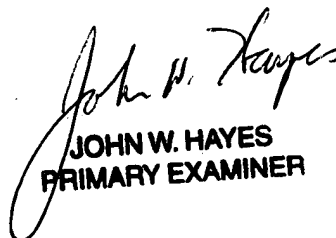
If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Richard Woo
Patent Examiner
Art Unit 3639
June 27, 2005

JOHN W. HAYES
PRIMARY EXAMINER